

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTHONY BRIAN MALLGREN,

Plaintiff,

v.

AARON ANZALONE and
DEIDRE RAE MALLGREN,

Defendant.

NO: 13-CV-0234-TOR

ORDER DISMISSING CASE

BEFORE THE COURT is Plaintiff's request to file a *pro se* complaint *in forma pauperis*. ECF No. 1 and 2.

DISCUSSION

By Local Rule, each United States Magistrate Judge in this District is delegated the authority to "[r]ule upon applications to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915." LMR 1(a)(16). By Order dated June 20, 2013, a United States Magistrate Judge reviewed Plaintiff's application to proceed *in forma pauperis* and denied the same with leave to renew. ECF No. 4. The Order

1 explained that Plaintiff provided an incomplete answer to question number 9, but
2 allowed Plaintiff thirty days to submit a properly completed application (or pay the
3 full filing fee). *Id.* Thirty days has passed. Plaintiff chose neither alternative, he
4 filed a notice of appeal to the Ninth Circuit Court of Appeals instead. ECF No. 5.
5 The Ninth Circuit Court of Appeals dismissed Plaintiff's appeal on July 11, 2013.
6 ECF No. 9.

7 ***In Forma Pauperis Determination***

8 *Forma pauperis* status requires two findings: (1) a finding of indigency, and
9 (2) a finding that the underlying claim has some merit. *Bradshaw v. Zoological*
10 *Soc. of San Diego*, 662 F.2d 1301, 1308 (9th Cir. 1981). Pursuant to 28 U.S.C.
11 § 1915(e)(2)(B), notwithstanding any filing fee, or any portion thereof, that may
12 have been paid, the court shall dismiss the case at any time if the court determines
13 that the action or appeal (i) is frivolous or malicious or (ii) fails to state a claim
14 upon which relief may be granted.

15 A complaint fails to state a claim upon which relief may be granted if it
16 lacks a cognizable legal theory or lacks sufficient facts to support a cognizable
17 legal theory. *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990).
18 Plaintiff's Complaint does not state a cognizable legal theory, i.e., short plain
19 statements showing the court's jurisdiction and the grounds for relief. *See* Fed.
20 Rule Civ. Pro. 8(a).

1 Plaintiff complains that his wife, Defendant Deidre Mallgren informed New
2 York Downtown Hospital that Plaintiff had schizophrenia for a number of years.
3 ECF No. 1 at 2. Plaintiff complains that Defendant Aaron Anzalone was present
4 and may have guided Deidre Mallgren in providing this information. *Id.* As a
5 result, Plaintiff complains that the hospital “used this information to provide a
6 diagnosis of schizophrenia without either confirming a prior diagnosis nor
7 consulting a psychiatric professional.” *Id.* Plaintiff asserts he was “involuntarily
8 committed to several psychiatric units in several hospitals.” *Id.* Plaintiff seeks a
9 “preventative measure, in the form of an injunction preventing Deidre or Anzalone
10 from disclosing or discussing matters concerning him.” *Id.* at 3. Plaintiff invokes
11 the jurisdiction of the Court under the Sherman Act, and three federal criminal
12 statutes in Title 18, United States Code. *Id.* at 2.

13 Plaintiff does not articulate a cognizable legal theory upon which relief may
14 be granted by this Court.

15 Plaintiff failed to avail himself of the opportunity to amend his application to
16 provide complete information, nor has he paid the filing fee within thirty days.

17 The Court recognizes that Plaintiff has filed at least 29 cases in the United
18 States District Courts and 12 cases in the Circuit Courts of Appeal, this year. This
19 case is one of eight actions which have been filed in this District since May 10,
20 2013. Eastern District of Washington case numbers 13-CV-0175-LRS, 13-CV-

0180-TOR, 13-CV-0182-TOR, 13-CV-0210-TOR, 13-CV-0218-TOR, 13-CV-0228-TOR, 13-CV-0232-TOR, and 13-CV-0234-TOR. All eight have now been dismissed by the District Court for failure to state a claim.

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Plaintiff is advised that the filing of further frivolous actions will result in the imposition of more serious sanctions than dismissal.

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ACCORDINGLY, IT IS HEREBY ORDERED:

1. Plaintiff's Application to Proceed in the District Court In Forma

Pauperis, ECF No. 2, is **DENIED**.

2. Plaintiff's proposed Complaint, ECF No. 1, is **DISMISSED**.

The District Court Executive is hereby directed to enter this Order, a Judgment of Dismissal, furnish copies to Plaintiff at his last known address, and **CLOSE** the file.

DATED July 24, 2013.



Thomas O. Rice
THOMAS O. RICE
United States District Judge